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FOR IMMEDIATE RELEASE
APRIL 20, 2004

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**GOVERNMENT SETTLES NEXTWAVE LITIGATION;
BANKRUPT TELECOM TO RETURN OR SELL 90% OF ITS
ENCUMBERED SPECTRUM**

DAVID N. KELLEY, the United States Attorney for the Southern District of New York, announced today that the bankrupt telecommunications company NextWave Personal Communications, Inc., has settled its six-year dispute with the Federal Communications Commission ("FCC"), agreeing to return to the FCC or sell in the near future 90% of its encumbered spectrum. The return of the encumbered spectrum, based on the original NextWave purchase price, in addition to the anticipated cash payments to the FCC under the settlement, result in a recovery for the Government of at least \$4.0 billion.

The dispute has had a long and complicated history. NextWave originally purchased 95 licenses for wireless spectrum, broadly described as a range of frequencies on the public airwaves, at auctions conducted by the FCC in 1996 and 1997. In 1998, however, after making its down payment of approximately

\$500 million, NextWave filed for bankruptcy and refused to make additional payments.

Litigation concerning the licenses proceeded from the bankruptcy court to the Court of Appeals for the Second Circuit, in New York, to the Court of Appeals for the D.C. Circuit in Washington, D.C., and the United States Supreme Court. In late 2001, while the Government's appeal to the Supreme Court was pending, the Government and NextWave reached a tentative settlement. Because of the amount of the proposed settlement, Congress was required to approve the settlement, but did not do so. Since that time, the value of the licenses has dramatically decreased. In January 2003, the United States Supreme Court ruled in NextWave's favor, returning the case to the bankruptcy court.

As a result of the settlement, which is subject to approval by the Bankruptcy Court, NextWave agrees to return the Government 72% of its encumbered spectrum. In addition, NextWave this month sold 17% of its encumbered spectrum to Cingular Wireless LLC and paid the Government \$714 million from the sale proceeds. Combined with the spectrum placed into short term escrow, at least 90% of the encumbered spectrum once held by NextWave can now be put to productive use, leaving NextWave with no more than 10% of the spectrum at issue.

Under the settlement, the FCC anticipates a cash recovery of at least \$1.6 billion in addition to the returned

licenses. The FCC has already received the \$714 million cash payment upon closing of the Cingular transaction earlier this month, the FCC will retain NextWave's original down payment of approximately \$500 million, and NextWave has agreed to pay \$386 million in cash from other potential near-term sales or return additional licenses.

In total, the return of the encumbered spectrum, based on the original NextWave purchase price, plus the cash settlement payment, result in a recovery for the Government of at least \$4.0 billion.

NextWave has also agreed to pay the FCC a portion of the proceeds from the sale of certain of NextWave's retained licenses in the next few years if there is a dramatic increase in value. Finally, in addition to the returned licenses and cash payments, NextWave agreed to release the FCC from any additional claims or liability based on the Supreme Court's ruling in NextWave's favor.

Assistant United States Attorneys DAVID S. JONES, DAVID J. KENNEDY, and JEANNETTE VARGAS are in charge of the case.

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